

Indaver Rivenhall IWMF DCO

Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and Procedure)

Regulations 2009

# ENVIRONMENTAL STATEMENT [PINS Ref: EN0101038]

## ES CHAPTER 5: CONSULTATION

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Indaver Rivenhall Ltd

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# 5 Consultation

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## 5.1 Introduction

5.1.1 This chapter of the ES provides a summary of the consultation held prior to the submission of the application for the Proposed Development and sets out the next steps which will be taken. This ES chapter is accompanied by the following appendices in **ES Volume 2, Appendices (Doc Ref. 6.2)**:

- **Appendix 5.1: EIA Scoping Report (April 2023);**
- **Appendix 5.2: Planning Inspectorate Scoping Opinion (June 2023);**
- **Appendix 5.3: Schedule of Scoping Opinion Comments and Responses;** and
- **Appendix 5.4: Schedule of Statutory Consultee Comments and Responses.**

## 5.2 DCO Consultation Requirements

5.2.1 Consultation within the DCO process is set out in the Planning Act 2008<sup>1</sup>, which stipulates that certain stakeholder groups and the community must be consulted as part of the pre-application process:

- Section 42 requires the Applicant to consult with ‘prescribed persons’ (including statutory bodies such as Historic England and the Environment Agency and relevant statutory undertakers), local authorities and people who fall within one or more of the categories within Section 44 of the PA 2008;
- Section 47 requires the Applicant to consult with the local community on the Proposed Development in accordance with the Statement of Community Consultation (the ‘SoCC’) (**Doc Ref. 5.2, Appendix C**), which was agreed in consultation with the relevant local authorities and publicised in a local newspaper;
- Section 48 requires the Applicant to publicise the Proposed Development in the ‘prescribed manner’ by publishing a notice in a national newspaper, the London Gazette and local newspapers within the vicinity of the Site; and
- Section 49 requires the Applicant to have regard to any relevant responses to the consultations and publicity undertaken.

5.2.2 Further regulations in relation to consultation contained in the Infrastructure Planning (Applications: Prescribed Forms and Procedure)<sup>2</sup> and the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017<sup>3</sup> (‘EIA Regulations’) also apply.

5.2.3 The DCO application for the Proposed Development is accompanied by a **Consultation Report (Doc Ref 5.1)**, which demonstrates how the Applicant has complied with the consultation requirements of the Planning Act 2008 and supporting regulations, including the EIA Regulations. The Consultation Report

includes a separate section on EIA-related consultation, as recommended within PINS Advice Note Fourteen: Compiling the Consultation Report.<sup>4</sup>

- 5.2.4 Consultation has been an ongoing process that has informed the finalisation of the ES forming part of this DCO application.

## 5.3 Consultation to Date

### EIA Scoping

- 5.3.1 The EIA Scoping process determined which topics should be included in the ES, and the level of detail to which they should be assessed. The matters that are scoped into the ES are those considered likely to have the potential to cause a significant effect, taking into consideration applicable mitigation where relevant.
- 5.3.2 An EIA Scoping Report and a request for an EIA Scoping Opinion pursuant to Regulation 10 of the EIA Regulations was submitted to the Planning Inspectorate (PINS) on 25<sup>th</sup> April 2023 (**ES Volume 2, Appendix 5.1: EIA Scoping Report (Doc Ref. 6.2)**).
- 5.3.3 The Planning Inspectorate, on behalf of the Secretary of State, considered the EIA Scoping Report and consulted a number of statutory consultees, the host authorities (Braintree District Council (BDC) and Essex County Council (ECC)) and other relevant stakeholders on the scope and level of information proposed. A Scoping Opinion was issued by PINS on 6<sup>th</sup> June 2023 (**ES Volume 2, Appendix 5.2: Planning Inspectorate Scoping Opinion (Doc Ref. 6.2)**).
- 5.3.4 The feedback received in the Scoping Opinion is broadly summarised under the following topics:
- integration of the Proposed Development works into the Consented Scheme;
  - detailing a worst-case scenario for each of the Works options;
  - providing the size of the governor valves;
  - clarifications on the project description;
  - requests for further information on the operational processes of the Proposed Development;
  - environmental permits; and
  - mitigation and controls.
- 5.3.5 In the Scoping Opinion, the Planning Inspectorate agreed that the following topics could be scoped out of the ES:
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|--|---|
| ▪ air quality;                               | ▪ ecological impact and ecological risk assessment; |
| ▪ land use and contaminated land;            | ▪ landscape and visual impacts,                     |
| ▪ ground and surface water (and flood risk); | ▪ archaeology and cultural heritage;                |

- travel and transport;
- nuisance impacts assessment;
- light pollution, social and community issues;
- human health;
- waste and minerals;
- vulnerability to major accidents and disasters;
- aviation;
- energy and utilities;
- electromagnetic fields;
- telecommunications, and
- effect interactions.

5.3.6 The Scoping Opinion concluded that three matters could be potentially scoped out, subject to provision of further information which is provided in the relevant chapters of the ES:

- construction phase;
- decommissioning phase; and
- vibration effects.

5.3.7 Within their responses to inform the Scoping Opinion, BDC and ECC provided requests for further considerations for the noise assessments:

- noise survey update – requesting a new noise impact assessment; and
- noise receptors – requesting inclusion of receptors at Silver End (including at Jewitt Way) and Park Gate Road in the noise impact assessment.

5.3.8 **ES Volume 2, Appendix 5.3: Schedule of Scoping Opinion Comments and Responses (Doc Ref. 6.2)** provides the Applicant's comments on the EIA Scoping Opinion adopted by PINS. It addresses scoping responses received from BDC and ECC and provides further clarifications in relation to topics assessed in the ES, including on technical matters such as receptors, the survey work undertaken and on cumulative effects.

### Non-statutory Consultation and Other Engagement

5.3.9 Consultation for the Proposed Development has been undertaken in two stages. The first being a stage of informal consultation with some key stakeholders to present the emerging proposals. This has included engagement with; the existing Site Liaison Group that comprises representatives of the local community and other stakeholders, including BDC and ECC Councillors, Parish Council members; the planning officers from BCC and ECC; and the Environment Agency.

5.3.10 A summary of the informal consultation activities undertaken and the Applicant's responses to it are set out in the **Consultation Report (Doc Ref. 5.1)** submitted with the DCO application.

### Statutory Consultation

5.3.11 The second stage of consultation (referred to as the '2023 statutory consultation') was the statutory consultation pursuant to Section 47 of the Planning Act 2008. This was undertaken between 28<sup>th</sup> June and 23<sup>rd</sup> August 2023. The Applicant prepared a Preliminary Environmental Information (PEI) Report in advance of the statutory

consultation, taking into account feedback from the non-statutory consultation and from the Scoping Opinion.

- 5.3.12 The approach to statutory consultation was developed through engagement with BDC and ECC, culminating in the production of a SoCC (**Doc Ref. 5.2, Appendix C**). The SoCC set out the approach to community consultation pursuant to Section 47 of the Planning Act 2008, the key activities being as follows:
- issuing of leaflets to a local community consultation zone;
  - establishment of a consultation website;
  - holding community exhibition events; and
  - publishing notices to advertise the consultation, as per the requirements of the Planning Act 2008.
- 5.3.13 Consultation was also undertaken at this time with the statutory consultees under Section 42; and publicity was undertaken pursuant to Section 48 of the Planning Act 2008.
- 5.3.14 63 responses were received to the 2023 statutory consultation, with matters raised including:
- clarity sought over how the Proposed Development would affect the Consented Scheme, namely with regard to issues like the size of the building and the stack/chimney, and the size of the plume;
  - concern over air quality impacts;
  - concern that by allowing the EfW component of the IWWMF to produce additional electricity, this will in turn allow the IWWMF to burn more waste each year;
  - concern over effects to operational noise;
  - comments that the Proposed Development constitutes ‘planning creep’ and that the scheme has changed since the first grant of planning permission for the IWWMF, namely to allow it to incinerate more waste;
  - comments that the Proposed Development is at odds with the sustainable management of waste;
  - concern that the grant of a DCO would mean that ECC and BDC lose ‘control’ over the IWWMF as it would constitute an NSIP for the purposes of the Planning Act 2008;
  - concern over impacts to local highways; and
  - support for the proposals.
- 5.3.15 A summary of the statutory consultation activities undertaken and the Applicant’s responses to the feedback received are set out in **ES Volume 2, Appendix 5.4: Schedule of Statutory Consultee Comments and Responses (Doc. Ref. 6.2)** and the **Consultation Report (Doc Ref. 5.1)** submitted with the DCO application.

## References

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<sup>1</sup> Her Majesty's Stationary Office ('HMSO'), (2008). Planning Act 2008. The Stationary Office.

<sup>2</sup> HMSO, (2009). Infrastructure Planning (Applications: Prescribed Forms and Procedure). The Stationary Office. October 2009.

<sup>3</sup> HMSO, (2017). The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. The Stationary Office. May 2017.

<sup>4</sup> Planning Inspectorate, (2021). National Infrastructure Planning Advice Note Fourteen: Compiling the Consultation Report. February 2021.

